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Guy M. Hicks  
General Counsel

May 10, 2000

VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Petition for Arbitration of BlueStar Networks, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*  
Docket No. 99-00945

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s Objections to Data Requests and Request for Production of BlueStar Networks, Inc. Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,

Guy M. Hicks

GMH:ch  
Enclosure

POSTED  
5/12/00

POSTED

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In Re: *Petition for Arbitration of BlueStar Networks, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*

Docket No. 99-00945

**BELLSOUTH'S OBJECTIONS TO DATA REQUESTS  
AND REQUESTS FOR PRODUCTION OF  
BLUESTAR NETWORKS, INC.**

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits the following objections to the Data Requests and Requests for Production of BlueStar Networks, Inc. ("BlueStar").

**GENERAL OBJECTIONS**

1. BellSouth objects to each Request to the extent that it purports to impose upon it any obligations more onerous or far reaching than those provided for in the Tennessee Rules of Civil Procedure or any other applicable statute, rule, or regulation.
2. BellSouth objects to each Request to the extent it would require BellSouth to reveal information or documents that are protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege.
3. BellSouth objects to each and every Request insofar as the Request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. BellSouth objects to each Request to the extent that it is not addressed to the three remaining issues to be arbitrated in this proceeding or that it relates to issues that have been withdrawn from the proceeding. BellSouth will attempt to note each instance where this objection applies.

4. BellSouth objects to each Request to the extent that it would require BellSouth to create or produce a document it does not maintain in the ordinary course of business.

5. BellSouth objects to each and every Request, insofar as it is unduly burdensome, expensive, oppressive, or excessively time consuming as written.

6. BellSouth has interpreted BlueStar's Requests to apply to BellSouth's regulated intrastate operations in Tennessee and will limit its Answers accordingly. To the extent that any Request is intended to apply to matters other than Tennessee intrastate operations subject to the jurisdiction of the Authority, BellSouth objects to such Request to produce as irrelevant, overly broad, unduly burdensome and oppressive.

7. BellSouth objects to the Definitions and Instructions to these discovery Requests to the extent that they seek electronic copies (e.g., diskettes). BellSouth will produce hard copies of responsive documents.

#### **SPECIFIC OBJECTIONS TO DATA REQUESTS**

**Data Request No. 3:** Please identify the costs associated with converting an order for an xDSL capable loop to an order an unbundled cooper loop (UCL).

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceedings, nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators bears no relation to nor does it address "the costs associated with converting an order for an xDSL capable loop to an order an unbundled cooper loop (UCL)." The issue to which this Request is presumably directed – Issue 5 – is limited to the rates, terms and conditions for BellSouth's Loop Make-Up Service Inquiry (LMUSI) process.

Costs associated with converting a loop bear no relation to LMUSI or the other two remaining issues in this proceeding.

**Data Request No. 5:** Please identify the nonrecurring costs associated with preordering and ordering an xDSL capable loop or UCL.

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding, nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators bears no relation to nor does it address “the non recurring costs associated with preordering and ordering an xDSL capable loop or UCL.” BellSouth also objects to this Request in that it is vague, overly broad, and unduly burdensome.

**Data Request No. 7:** Please identify the costs associated with electronically obtaining loop make-up information and/or electronically preordering or ordering loops.

**Objection:** BellSouth objects on the grounds that the information requested is not relevant to any issue in this proceeding, nor is it reasonably calculated to lead to the discovery of admissible evidence. The issue to which this Request is presumably directed – Issue 5 – is limited to the rates, terms and conditions for BellSouth’s Loop Make-Up Service Inquiry process. Costs associated with converting a loop bear no relation to this or the other two remaining issues in this proceeding. As stated in BellSouth’s Position Statement in the Joint Issues Matrix, BellSouth believes that its electronic access to LFACS will be available in the third quarter of this year. However, because the process is not yet available, rates have not yet even been proposed, so no issue has arisen as to those rates.

**Data Request No. 11:** Please provide a list of all multitenant buildings in Nashville and Memphis, Tennessee, in which the building owners or managers have asserted ownership of the intrabuilding network cable (INC), riser cable or network terminating wire (NTW).

**Objection:** BellSouth objects on the grounds that the information requested is not relevant to any issue in this proceeding, nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators bears no relation to nor does it address “a list of all multitenant buildings in Nashville and Memphis, Tennessee, in which the building owners or managers have asserted ownership of the intrabuilding network cable (INC), riser cable or network terminating wire (NTW).” BellSouth also objects to this Request in that it is overly broad and unduly burdensome.

**Data Request No. 12:** Please describe BellSouth’s process for maintaining and providing documentation to CLECs regarding the location of and the establishment of demarcation points for multitenant buildings in Tennessee. This answer should include the name and phone and fax numbers for the BellSouth employee to contact when requesting such information for a building.

**Objection:** BellSouth objects on the grounds that the information requested is not relevant to any issue in this proceeding, nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators bears no relation to nor does it address “process for maintaining and providing documentation to CLECs regarding the location of and the establishment of demarcation points...”

**Data Request No. 13:** State the cost of removing load coils and bridge taps that BellSouth attributes to its own retail or wholesale ADSL service in any cost analysis. Please identify the specific cost analysis referenced in your response.

**Objection:** BellSouth objects to this Request to the extent that it seeks information relating to BellSouth's retail services. BellSouth's retail services are not at issue in this arbitration. Accordingly, BlueStar's Request for this information is improper because the information is not relevant, and is not reasonably calculated to lead to the discovery of admissible evidence. Moreover, this information is proprietary, since its disclosure would harm the competitive interests. Here, BlueStar (a competitor of BellSouth) has chosen to demand irrelevant information that is also of extreme competitive sensitivity. This Request is for information that has no relevance to the issues in this case, and the Request for this information is especially improper given that the information BlueStar demands has value to BlueStar as a competitor and BellSouth normally treats the information as confidential. Standing alone, of course, the proprietary nature of information is not sufficient to justify withholding it from discovery. In an instance such as this one, however, in which BlueStar (a competitor of BlueStar) has chosen to demand for reasons known only to itself irrelevant information that is also of extreme competitive sensitivity, the proprietary nature of the information should be considered. In other words, these are not requests that are irrelevant, but harmless.

**Data Request No. 14:** Please state by what date BellSouth will provide electronic access to loop make-up information in LFACS and any other BellSouth databases (including those databases accessed through Map Viewer).

**Objection:** To the extent this Request seeks information regarding "any other BellSouth databases (including those databases accessed through Map Viewer)", BellSouth

objects on the grounds that the information requested is not relevant to any issue in this proceeding, nor is it reasonably calculated to lead to the discovery of admissible evidence. The issue to which this Request is presumably directed – Issue 5 – is limited to the rates, terms and conditions for BellSouth’s Loop Make-Up Service Inquiry process. There is no issue regarding “any other BellSouth databases.” Furthermore, as BlueStar is well aware, MAP Viewer will not be available in Tennessee and several other states.

### **SPECIFIC OBJECTIONS TO REQUESTS FOR PRODUCTION**

**Request for Production No. 2:** Please provide a complete copy of any cost study BellSouth has developed (for submission to any state or federal regulatory agency or for internal business case analysis) to determine rates for xDSL capable loops (including ADSL and HDSL capable loops). Please identify any differences in methodology between the costs in the studies provided. Please include a complete working copy of all computerized models involved in preparing the costs with data intact; a complete set of working papers with all special studies, data sources, data inputs and assumptions and a complete set of cost study documentation.

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding nor is it reasonably calculated to lead to the discovery of admissible evidence. The issue to which this Request is presumably directed – the rates for xDSL capable loops – has been settled by the parties. Attachment A to the Pre-Arbitration Officer’s Report and Initial Order, entered May 3, 2000, and approved by the Arbitrators on May 9, 2000 clearly sets forth the parties’ negotiated agreement for rates for “ADSL Compatible Loops.”

**Request for Production No. 3:** Please provide a complete copy of any cost study BellSouth has developed (for submission to any state or federal regulatory agency or for internal business case analysis) to determine the rates for the “unbundled copper loop” offered by BellSouth. Please identify any differences in methodology between the costs in the studies provided. Please include a complete working copy of all computerized models involved in preparing the costs with data intact; a complete set of working papers with all special studies, data sources, data inputs and assumptions and a complete set of cost study documentation.

**Objection:** BellSouth objects to this Request to the extent that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. BellSouth further states that it has not filed a cost study for unbundled copper loops in Tennessee.

**Request for Production No. 4:** Please provide a complete copy of any cost study BellSouth has developed (for submission to any state or federal regulatory agency or for internal business case analysis) to determine rates for line conditioning (e.g., removing load coils or bridge taps, adding or removing repeaters, rearranging outside plant facilities) offered by BellSouth. Please identify any differences in methodology between the costs in the studies provided. Please include a complete working copy of all computerized models involved in preparing the costs with data intact; a complete set of working papers with all special studies, data sources, data inputs and assumptions and a complete set of cost study documentation.

**Objection:** BellSouth objects to this Request to the extent that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving the foregoing objections, BellSouth will produce responsive documents only after the entry of an appropriate



protective order. BellSouth further states that it has not filed a cost study for line conditioning in Tennessee.

**Request for Production No. 5:** Please provide a complete copy of any cost study BellSouth has developed (for submission to any state or federal regulatory agency or for internal business case analysis) to determine rates for 2-wire analog voice grade loops. Please identify any differences in methodology between the costs in the studies provided. Please include a complete working copy of all computerized models involved in preparing the costs with data intact; a complete set of working papers with all special studies, data sources, data inputs and assumptions and a complete set of cost study documentation.

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators makes no reference whatsoever to nor does it address rates for 2-wire analog voice grade loops. It is unclear which issue this Request is directed to – BlueStar has not even requested that the Arbitrators determine rates for 2-wire analog voice grade loops.

**Request for Production No. 6:** Please provide a complete copy of any cost study BellSouth has developed (for submission to any state or federal regulatory agency or for internal business case analysis) to determine rates for intrabuilding network cable (INC), rise cable and/or network terminating wire (NTW) offered by BellSouth. Please identify any differences in methodology between the costs in the studies provided. Please include a complete working copy of all computerized models involved in preparing the costs with data intact; a complete set of

working papers with all special studies, data sources, data inputs and assumptions and a complete set of cost study documentation.

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators does not address rates for “intrabuilding network cable (INL), riser cable and/or network terminating wire (NTW) offered by BellSouth.” Moreover, on May 9, 2000, the Authority decided to convene a separate proceeding to establish generic rates for riser cable and NTW.

**Request for Production No. 8:** Please provide all documents and data relating to electronically obtaining loop make-up information and/or electronically preordering or ordering loops, including a complete copy of any cost study BellSouth has developed (for submission to any state or federal regulatory agency or for internal business case analysis) to determine rates for electronically obtaining loop make-up information and/or electronically preordering or ordering loops. Please identify any differences in methodology between the costs in the studies provided. Please include a complete working copy of all computerized models involved in preparing the costs with data intact; a complete set of working papers with all special studies, data sources, data inputs and assumptions and a complete set of cost documentation.

**Objection:** BellSouth objects to this Request on the grounds that it is overly broad and unduly burdensome. BellSouth also objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators makes no reference whatsoever to nor does it address

rates for “electronically obtaining loop make-up information and/or electronically preordering or ordering loops.” The issue to which this Request is presumably directed – Issue 5 – is limited to the rates, terms and conditions for BellSouth’s Loop Make-up Service Inquiry process. As stated in BellSouth’s Position Statement in the Joint Issues Matrix, BellSouth believes that its electronic access to LFACS will be available in the third quarter of this year. However, because the process is not yet available, rates have not yet been proposed, and no issue has arisen as to those rates.

**Request for Production No. 9:** Please provide all documents and data relating to BellSouth’s determination of the demarcation point in multitenant buildings in Tennessee. These documents should include any information concerning the use of the minimum point of entry (MPOE) as the demarcation point in any multitenant buildings in Tennessee.

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding nor is it reasonably calculated to lead to the discovery of admissible evidence. The list of issues agreed to by the parties and approved by the Pre-Arbitration Officer and Arbitrators makes no reference whatsoever to nor does it address “demarcation point or MPOE.” BellSouth also objects to this Request in that it is overly broad and unduly burdensome.

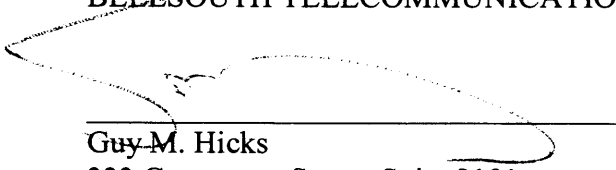
**Request for Production No. 10:** Please provide copies of all agreements or documents between BellSouth and the owners or managers of multitenant buildings in Memphis and Nashville, Tennessee concerning the ownership of INC, riser cable or network terminating wire in such buildings.

**Objection:** BellSouth objects to this Request on the grounds that the information requested is not relevant to any issue in this proceeding nor is it reasonably calculated to lead to

the discovery of admissible evidence. The issue to which this Request is presumably directed – Issue 16 – does not involve any dispute between BellSouth or BlueStar and “the owners or managers of multitenant buildings ...” Issue 16. Nor does Issue 16 deal with “the ownership of INL, riser, cable or network terminating wire.” To the contrary, Issue 16 is “Should the interconnection agreement include a provision allowing BlueStar to cross connect its DSLAM directly to BellSouth’s riser cable NID in buildings, and if so, what, if any, rates, terms, and conditions should apply” – nothing more, nothing less. Copies of the documents requested by BlueStar bear no relation to this issue.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



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## CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☒ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight

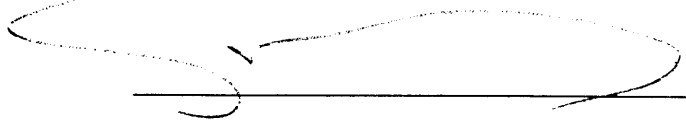
Richard Collier, Esquire  
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- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

Michael B. Bressman, Esquire  
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Nashville, TN 37219

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

Henry Walker, Esquire  
Boult, Cummings, et al.  
414 Union Ave., #1600  
P. O. Box 198062  
Nashville, TN 39219-8062

  
A handwritten signature in dark ink, appearing to be "S. J. Walker", is written over a horizontal line.